

**HOUSE COMMITTEE AMENDMENTS**

2019 Regular Session

Substitute for Original House Bill No. 167 by Representative Lance Harris as proposed by the House Committee on Education

**This document reflects the content of a substitute bill but is not in a bill form; page numbers in this document DO NOT correspond to page numbers in the substitute bill itself.**

To amend and reenact R.S. 17:7(6)(h)(introductory paragraph) and (10), 15(A)(1)(b)(i)(aa) and (ii) and (2)(a)(i) and (c), (C), (F)(1), and (G), and 3991(E)(5)(a)(ii)(aa) and (iii) and (b) and to enact R.S. 17:7(6)(h)(iii), relative to teachers and other school employees; to revise requirements pertaining to criminal history with respect to the certification, hiring, and dismissal of teachers and other school employees; to provide for the powers, duties, and rules of the State Board of Elementary and Secondary Education with respect to these processes; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 17:7(6)(h)(introductory paragraph) and (10), 15(A)(1)(b)(i)(aa) and (ii) and (2)(a)(i) and (c), (C), (F)(1), and (G), and 3991(E)(5)(a)(ii)(aa) and (iii) and (b) are hereby amended and reenacted and R.S. 17:7(6)(h)(iii) is hereby enacted to read as follows:

§7. Duties, functions, and responsibilities of board

In addition to the authorities granted by R.S. 17:6 and any powers, duties, and responsibilities vested by any other applicable laws, the board shall:

\* \* \*

(6)

\* \* \*

(h) The board may issue a teaching certificate or other teaching authorization to a person who has been convicted of or has pled nolo contendere to ~~a felony~~an offense ~~not~~ listed in R.S. 15:587.1(C) or to any felony offense, who has been found to have submitted fraudulent documentation to the board or the state Department of Education as part of an application for a teaching certificate or other teaching

authorization, or who has been found to have facilitated cheating on any state assessment as determined by the board if all of the following conditions apply:

\* \* \*

(iii) The offense was not a crime of violence as defined in R.S. 14:2.

\* \* \*

(10) The board shall promulgate rules and regulations in accordance with the Administrative Procedure Act to establish a process for issuing a teaching authorization to a person seeking employment as an administrator, teacher, or substitute teacher in any school, including a public or nonpublic school that does not require a Louisiana teaching certificate for the employment of a teacher. Such rules and regulations shall be limited to procedures for determining if a person has submitted fraudulent documentation to the board or the state Department of Education related to the issuance of the teaching authorization or has facilitated cheating on any state assessment administered to students, or has been convicted of or has pled nolo contendere to a crime listed in R.S. 15:587.1(C) or to a felony offense. The rules and regulations also shall include a requirement that the board, in accordance with R.S. 42:17(A)(1), notify the person of its intention to discuss the person's character, professional competence, or physical or mental health in an executive session and of the person's option to require that the board discuss such matters in an open meeting.

\* \* \*

§15. Criminal history review

A.(1)

\* \* \*

(b)(i) Except as otherwise provided in this Subparagraph, a city, parish, or other local public school board or a nonpublic school or school system shall not knowingly hire a person as an administrator, teacher, or substitute teacher if the person:

(aa) Has been convicted of or has pled nolo contendere to a ~~felony offense~~ crime listed in R.S. 15:587.1(C) even if adjudication was withheld or a pardon or expungement was granted.

\* \* \*

(ii) A city, parish, or other local public school board or a nonpublic school or school system may hire a person as an administrator, teacher, or substitute teacher who ~~has been convicted of or has pled nolo contendere to a felony not listed in R.S. 15:587.1(C), who has been found to have submitted fraudulent documentation to the State Board of Elementary and Secondary Education or the state Department of Education as part of an application for a Louisiana teaching certificate or other teaching authorization, or who has been found to have facilitated cheating on any state assessment as determined by the board~~ is otherwise prohibited from being hired pursuant to Item (i) of this Subparagraph if the State Board of Elementary and Secondary Education approves a formal appeal request submitted by the person and issues a teaching certificate or authorization as provided in R.S. 17:7(6)(h).

\* \* \*

(2)(a) A city, parish, or other local public school board shall dismiss:

(i) An administrator, teacher, or substitute teacher upon the final conviction of or submission of a plea of nolo contendere to any ~~felony offense~~, crime listed in R.S. 15:587.1(C); however, if the person has obtained tenure, such dismissal shall occur only after a hearing held pursuant to the provisions of Part II of Chapter 2 of this Title.

\* \* \*

(c) A city, parish, or other local public school board may reemploy an administrator, teacher, or other school employee who has been dismissed for conviction of a crime, except a crime ~~listed in R.S. 15:587.1(C)~~ of violence as defined in R.S. 14:2, pursuant to Subparagraph (a) of this Paragraph only upon written approval of ~~the~~ a district judge of the parish and the district attorney, or upon written documentation from the court in which the conviction occurred stating that the conviction has been reversed, set aside, or vacated. Any such statement of

approval of the judge and the district attorney and any such written documentation from the court shall be kept on file at all times by the school and shall be produced upon request to any law enforcement officer. No later than thirty days after its being placed on file by the school, the school principal shall submit a copy of any such statement of approval or written documentation from the court to the state superintendent of education.

\* \* \*

C. The State Board of Elementary and Secondary Education by rule adopted in accordance with the Administrative Procedure Act shall establish requirements and procedures consistent with the provisions of R.S. 15:587.1 ~~and the provisions for all other felony offenses~~ for the state Department of Education to determine whether an applicant for or the recipient of any certificate, license, or other teaching authorization issued in accordance with state law or board policy by the department or the board and who might reasonably be expected to be placed in a position of supervisory or disciplinary authority over school children has been convicted of or pled nolo contendere to any criminal offense. Included in this rule shall be the requirement and the procedure for the submission of a person's fingerprints in a form acceptable to the Louisiana Bureau of Criminal Identification and Information.

\* \* \*

F.(1) The State Board of Elementary and Secondary Education may assess a civil fine against a school governing authority, equal to the average state yearly compensation for a public school teacher, inclusive of salary and benefits, that knowingly employs a person without requesting the criminal records required by this Section or who knowingly hires a person who has been convicted of or pled nolo contendere to any ~~felony offense~~ crime listed in R.S. 15:587.1(C), except R.S. 14:74, and who the State Board of Elementary and Secondary Education has not provided a teaching authorization pursuant to the provisions of R.S. 17:7(10) or who has not completed the formal appeal process required by the state board and been granted a new teaching certificate or other teaching authorization as provided in R.S. 17:7(6)(h).

\* \* \*

G. At the request of his parent or legal guardian, a student shall be removed from the class of any teacher who has a ~~felony~~ conviction of any felony offense or any offense listed in R.S. 15:587.1(C), except R.S. 14:74, and placed in another class if there is another class of a suitable grade or subject available.

\* \* \*

§3991. Charter schools; requirements; limitations; renewal; amendment; revocation; board membership

\* \* \*

E. A charter school shall not:

\* \* \*

(5)(a) Hire a person:

\* \* \*

(ii) As an administrator, teacher, or substitute teacher if any of the following apply to the person:

(aa) Has been convicted of or has pled nolo contendere to ~~any other felony offense~~ a crime listed in R.S. 15:587.1(C) even if adjudication was withheld or a pardon or expungement was granted.

\* \* \*

(iii) Notwithstanding any other provision of law, a charter school may hire a person as a teacher or substitute teacher who ~~has been convicted of or has pled nolo contendere to a felony not listed in R.S. 15:587.1(C) or who has been found to have submitted fraudulent documentation to the state board or the state Department of Education as part of an application for a Louisiana teaching certificate or other teaching authorization~~ is otherwise prohibited from being hired if the state board approves a formal appeal request submitted by the person and issues a teaching certificate or authorization as provided in R.S. 17:7(6)(h).

(b) The state board shall establish regulations, requirements, and procedures consistent with the provisions of R.S. 15:587.1 under which the school governing authority shall determine whether an applicant or employee has been convicted of

or pled nolo contendere to any ~~felony~~ criminal offense. Included in these regulations shall be the requirement and the procedure for the submission of a person's fingerprints in a form acceptable to the Louisiana Bureau of Criminal Identification and Information prior to employment of such person.

\* \* \*

---

## DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

---

HB Draft

2019 Regular Session

**Abstract:** Relative to criminal history, revises certain requirements for certification and employment of teachers and other school employees.

### BESE powers and duties

Present law authorizes the State Bd. of Elementary and Secondary Education (BESE) to do the following with respect to teacher certification and employment:

- (1) Issue a teaching certificate or authorization to a person who has been convicted of or has pled nolo contendere to a felony offense *not* listed in present law (R.S. 15:587.1) if certain conditions apply. Proposed law revises present law to apply to those who have been convicted of or have pled nolo contendere to an offense that *is* listed in such present law or any felony offense and adds to the list of such conditions that the offense was not a crime of violence as defined in present law (R.S. 14:2).
- (2) Assess civil fines for hiring a person who has been convicted of or pled nolo contendere to any felony offense. Proposed law allows such fining for hiring such persons who have been convicted of or pled nolo contendere to any crime listed in present law (R.S. 15:587.1(C)) except one (R.S. 14:74 – criminal neglect of family).

### Prohibition against hiring / exceptions

Present law prohibits the hiring of a person who has been convicted of or has pled nolo contendere to a felony offense as an administrator, teacher, or substitute teacher. Proposed law instead prohibits hiring for such positions anyone who has been convicted of or has pled nolo contendere to a crime listed in present law (R.S. 15:587.1(C)).

Present law allows hiring persons otherwise prohibited from being hired for certain positions if BESE approves a formal appeal request and issues a teaching certificate or authorization. Proposed law retains present law.

### Authorized reemployment / exceptions

Present law authorizes a school board to reemploy an administrator, teacher, or other school employee who has been dismissed for conviction of a crime, except a crime listed in present law (R.S. 15:587.1(C)). Proposed law instead allows a school board to reemploy such a person except if the conviction is for a crime of violence as defined in present law (R.S. 14:2).

### Required dismissal

Present law requires the dismissal of an administrator, teacher, or substitute teacher upon final conviction of or plea of nolo contendere to any felony offense after a hearing held pursuant to present law. Proposed law instead requires dismissal for crimes listed in present law (R.S. 15:587.1(C)) and limits hearing requirement to those who have obtained tenure.

#### **Student removal from class**

Present law requires, upon parental request, a student to be removed from the class of any teacher who has a felony conviction. Proposed law instead applies this requirement to the class of any teacher who has a conviction for any offense listed in present law (R.S. 15:587.1(C)) except for one (R.S. 14:74—criminal neglect of family) but makes it conditional on there being another class of a suitable grade or subject available.

(Amends R.S. 17:7(6)(h)(intro. para.) and (10), 15(A)(1)(b)(i)(aa) and (ii) and (2)(a)(i) and (c), (C),(F)(1), and (G), and 3991(E)(5)(a)(ii)(aa) and (iii) and (b); Adds R.S. 17:7(6)(h)(iii))